

JRO:MKD:ljc 37169 \pleading\37169MTDismissCounts

UNITED STATES DISTRICT COURT
FOR THE DISTRICT OF MASSACHUSETTS

CAROLINE DACOSTA, as Personal
Representative and Administratrix for the
Estate of JOSE L. DACOSTA, JR.

VS.

CPR FISHING, INC.

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C. A. NO. 04cv12059 JLT
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PEARL BEAUVAIS, as Personal
Representative and Administratrix for the
Estate of JOHN BEAUVAIS

VS.

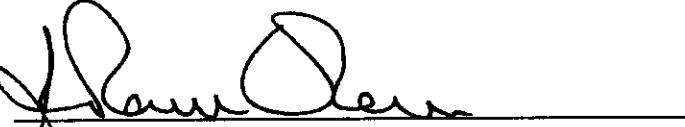
CPR FISHING, INC.

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C.A. NO. 04-12057 NG
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DEFENDANT'S MOTION TO DISMISS
COUNTS ONE AND TWO OF PLAINTIFFS' COMPLAINTS

Now comes the defendant in the above captioned matters and hereby moves to dismiss Counts One and Two of plaintiffs' Complaints. It is undisputed from a reading of plaintiffs' complaints that the decedents' deaths occurred on the high seas, allegedly due to the acts of the defendant. Therefore, the sole source of recovery against the defendant is based on the pecuniary loss to the decedents' heirs at law as provided in the Death on the High Seas Act. Accordingly, Counts One and Two of the plaintiffs' complaints, for common law negligence and the Massachusetts wrongful death statute, should be dismissed. As reason therefor, defendant relies on the attached memorandum.

DEFENDANT,
By its Attorney,


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CERTIFICATION

I certify that I sent a true copy of the within on

4. 8. 05

to:

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